

February 11, 2015

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Jocelyn Boyd
Chief Clerk and Administrator
Public Service Commission of SC
Synergy Business Park, Saluda
Building
101 Executive Park, Saluda Building
Columbia, SC 29210

Re: North Carolina Waste Awareness and Reduction Network, Inc. v. Duke
Energy Carolinas, LLC and Duke Energy Progress, Inc.
Docket No. 2015-17-E

Dear Ms. Boyd:

By letter dated December 17, 2014, the Executive Director of NC WARN informed the Public Service Commission of South Carolina ("Commission") of the filing of a complaint by NC WARN with the Federal Energy Regulatory Commission ("FERC") requesting investigation of the practices of Duke Energy Carolinas and Duke Energy Progress ("Duke Energy"). The letter states that "NC WARN is calling on FERC and utility commissions to ... commission a study that further examines the possibility of Southeast utilities participating in [regional transmission organizations or] RTOs." NC WARN attached a copy of its FERC complaint against Duke Energy for the Commission's review. The Commission received the letter on January 5, 2015. On January 8, 2015, the Commission sent a notice to Lockhart Power Company ("Lockhart Power"), designating Lockhart Power as a "Defendant/Respondent" and requiring Lockhart Power to "answer the allegations contained in the Complaint/Petition filed herein."

Lockhart Power respectfully submits that NC WARN's filing does not constitute a "Complaint/Petition." To the extent it can be considered such, it does not request any relief other than that the Commission conduct a study regarding RTOs. There is no requirement that the Commission conduct such a study and, in fact, it would be prudent for the Commission to await the resolution of NC WARN's FERC complaint before proceeding further in this matter. We respectfully submit that the Commission should decline to take any action in response to NC WARN's request.

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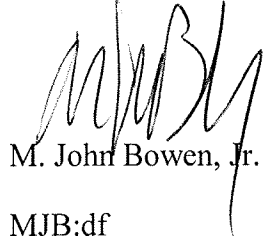
To the extent the NC WARN letter can be considered a complaint against Lockhart Power, we respectfully submit that it should be dismissed because it fails to state a claim upon which relief may be granted as to *anyone*, let alone Lockhart Power. *See* S.C. Code Ann. Regs. 103-824 (“Any person complaining of anything done or omitted to be done by any person under the statutory jurisdiction of the Commission in contravention of any statute, rule, regulation or order administered or issued by the Commission may file a written complaint with the Commission”).

Furthermore, NC WARN has not alleged any facts that would support a finding that it has the required legal standing to bring an action in South Carolina. By its own admission, NC WARN is a North Carolina corporation “with approximately 1,000 individual members and families across North Carolina,” *See* FERC Complaint at pp. 2-3.

For these reasons, we ask that the Commission treat the NC WARN filing as a request, and that the Commission decline to take action on the request at this time. Alternatively, to the extent the Commission considers the request to be a “Complaint,” we ask that it be dismissed for failure to state a claim upon which relief may be granted, and because NC WARN lacks standing to bring a complaint in South Carolina.

Very truly yours,

McNAIR LAW FIRM, P.A.



M. John Bowen, Jr.

MJB:df

cc: Parties of Record

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

Docket No. 2015-17-C

Re: Application of North Carolina Waste)
Awareness and Reduction Network,)
Incorporated (NC WARN))
_____)

CERTIFICATE OF SERVICE

I, Dennie Fyfe, do hereby certify that I have this date served one (1) copy of the foregoing Response to NC WARN by Lockhart Power upon the following parties of record by causing said copies to be deposited in the United States Mail, First Class, postage prepaid to:

Jim Warren, Executive Director
NC Waste Awareness and
Reduction Network, Inc.
P.O. Box 61051
Durham, NC 27715

Florence P. Belser, Esquire
Jeffrey M. Nelson, Esquire
Office of Regulatory Staff
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Heather S. Smith, Esquire
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550 S. Tryon Street – DEC45A
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